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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
LUFKIN DIVISION**

<b>KENNETH DOUGLAS WARREN, JR.</b>	§	
	§	
<b>V.</b>	§	<b>CAUSE NO. <u>9:08-cv-173</u></b>
	§	
<b>INSTA-CASH ASSETS MANAGEMENT,</b>	§	
<b>LP, and</b>	§	
<b>INSTA-CASH MANAGEMENT, LLC</b>	§	<b>JURY DEMANDED</b>

**PLAINTIFF'S ORIGINAL COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW **Kenneth Douglas Warren, Jr.**, Plaintiff, and makes, files and serves his Original Complaint against Insta-Cash Assets Management, LP and Insta-Cash Management, LLC, Defendants, and for cause would show the following:

**A. Parties**

1. Plaintiff, Kenneth Douglas Warren, Jr., is an individual who is a citizen of the State of Texas.
2. Defendant, Insta-Cash Assets Management, LP, is a limited partnership with a principal place of business in the State of Texas. Insta-Cash Assets Management, LP may be served with process by serving its registered agent, Kevin Prochaska, at 1921 Bridgecrest Lane, Roanoke, Texas 76262.
3. Defendant, Insta-Cash Management, LLC, is a limited liability company that is organized under the laws of the State of Texas. Insta-Cash Management, LLC has its principal place of business in the State of Texas, and may be served with process by serving its registered agent, Kevin Prochaska, at 1921 Bridgecrest Lane, Roanoke, Texas 76262.

**B. Jurisdiction**

4. The court has jurisdiction over the lawsuit because the action arises under the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. § 623 et seq., including incorporated provisions of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §201 et seq. The plaintiff is over the age of 40 and was employed as a store manager with the defendants.

**C. Venue**

5. Venue is proper in this district under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to this claim occurred in this district.

**D. Exhaustion of Administrative Remedies**

6. Plaintiff timely filed with the Equal Employment Opportunity Commission (“EEOC”) a charge of discrimination against the defendants. Plaintiff files this complaint within 90 days after receiving a notice of the right to sue from the EEOC. A copy of the notice of the right to sue is attached as Exhibit “A”.

**E. Discrimination under the ADEA**

7. Plaintiff is an employee within the meaning of the ADEA and belongs to a class of employees protected under statute, namely, employees over the age of 40.

8. Defendants are employers within the meaning of the ADEA.

9. Defendants intentionally discriminated against Plaintiff because of his age in violation of the ADEA. Specifically, Plaintiff was discharged by Defendants for allegedly failing to follow company policy, yet other persons employed by Defendants who violated the same company policy but who are not over the age of 40 were not terminated or disciplined in any way.

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### **F. Damages**

10. As a direct and proximate result of Defendants' conduct, Plaintiff suffered the following injuries and damages:

- a. Plaintiff was discharged from his employment with Defendants. Although Plaintiff has diligently sought other employment, he only has been able to find a job with much lower pay. In addition, Plaintiff has incurred expenses in seeking other employment.
- b. Plaintiff seeks compensation for all lost wages and benefits, including loss of Social Security benefits. Reinstatement of Plaintiff in his previous position is impractical and unworkable. Therefore, Plaintiff seeks an award of future lost wages and benefits to compensate him up to the mandatory retirement age of 70.
- c. Plaintiff is entitled to prejudgment interest on lost wages and benefits and postjudgment interest on all sums, including attorney's fees.
- d. Defendants' conduct was an intentional and willful violation of the ADEA. Plaintiff is entitled to an award of liquidated damages within the meaning of the ADEA and the FLSA.

### **G. Attorney's Fees**

11. Plaintiff was forced to engage counsel to protect his rights. Plaintiff is entitled to an award of attorney's fees and costs under the ADEA.

### **H. Jury Demand**

12. Plaintiff seeks a jury trial on all issues of fact herein.

### **I. Prayer**

13. For the reasons stated herein, Plaintiff prays for compensation for all lost wages and benefits, including future lost wages and benefits, liquidated damages within the meaning of the ADEA and the FLSA, costs of suit, reasonable attorney's fees, and all other relief the court deems appropriate.

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Respectfully submitted,

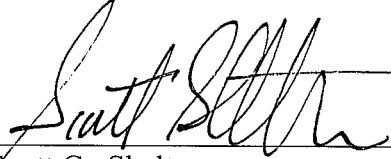
**ZELESKEY CORNELIUS HALLMARK  
ROPER HICKS PLLC**

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Lufkin, Texas 75902-1728

(936) 632-3381

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By: \_\_\_\_\_

Scott C. Skelton

State Bar No. 00784979

***Attorneys for Plaintiff***

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***EXHIBIT “A”***  
*(DISMISSAL AND NOTICE OF RIGHTS)*

**DISMISSAL AND NOTICE OF RIGHTS**

To: **Kenneth Warren**  
**209 St. Clair Street**  
**Lufkin, TX 75901**

From: **Houston District Office**  
**1919 Smith St, 7th Floor**  
**Houston, TX 77002**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**460-2008-00624**

**Nicholas Alwine,**  
**Enforcement Supervisor**

**(713) 209-3422****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

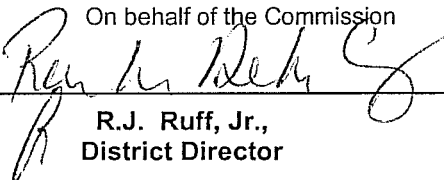
**- NOTICE OF SUIT RIGHTS -**

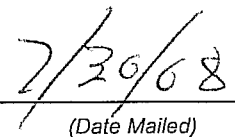
(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

  
**R.J. Ruff, Jr.,**  
**District Director**

  
 (Date Mailed)

Enclosures(s)

cc:

**Kim Prine**  
**FINANCE & ADMINISTRATION**  
**INST-CASH ASSETS MANAGEMENT, LP**  
**800 WEST LOOP 281**  
**Longview, TX 75604**

**Scott Skelton**  
**Zeleskey**  
**PO Drawer 1728**  
**1616 South Chestnut**  
**Lufkin, Texas 75902**